

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHRIS WALTERS,

No. C-08-0483 EMC

Plaintiff,

**ORDER DISMISSING PLAINTIFF'S
COMPLAINT WITH PREJUDICE; AND
FINDING PLAINTIFF'S MOTION FOR
RECONSIDERATION AND MOTION
TO WITHDRAW COMPLAINT MOOT**

v.

MICHAEL ASTRUE, *et al.*,

Defendants.

(Docket Nos. 19-20)

On March 4, 2008, the Court issued an order granting Plaintiff's motion to proceed in forma pauperis but dismissing his complaint for failure to state a claim for relief. The Court gave Plaintiff until April 3, 2008, to file an amended complaint. Plaintiff failed to do so; accordingly, the Court now dismisses the case with prejudice and directs the Clerk of the Court to enter judgment in accordance with this order and close the file in this case.


In so ruling, the Court acknowledges the document that Plaintiff filed on March 4, 2008, titled "Notice [that] Plaintiff Will Be On Temporary Leave of Absence Based on Medical Considerations." In the document, Plaintiff stated that he would temporarily be out of Lodi, California, where he resided at the time, "for most of March, 2008 to check on medical resources and programs in several nearby states." However, there is no provision for party "unavailability" under either the Federal Rules of Civil Procedure or the Civil Local Rules. Further, the Court notes that during the period of alleged unavailability, Plaintiff was still able to make several filings with the Court. *See, e.g.*, Docket Nos. 12, 14, 16. In any event, no amended complaint was filed with

1 this Court, nor has Plaintiff requested any further extension. Instead, it appears that from Plaintiff's
2 filing of April 23, 2008 (Docket No. 22), that the case has been resolved.

3 In light of the Court's dismissal of the complaint with prejudice, Plaintiff's motion for
4 reconsideration and motion to withdraw the complaint are moot.

5
6 IT IS SO ORDERED.

7
8 Dated: May 12, 2008


EDWARD M. CHEN
United States Magistrate Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHRIS WALTERS,

No. C-08-0483 EMC

Plaintiff,

v.

CERTIFICATE OF SERVICE

MICHAEL ASTRUE, *et al.*,

Defendants.

I, the undersigned, hereby certify that I am an employee in the U.S. District Court, Northern District of California. On the below date, I served a true and correct copy of the attached, by placing said copy/copies in a postage-paid envelope addressed to the person(s) listed below, by depositing said envelope in the U.S. Mail; or by placing said copy/copies into an inter-office delivery receptacle located in the Office of the Clerk.

CHRIS WALTERS
2414 Kettleman Lane #210-1109
Lodi, CA 95242

CHRIS WALTERS
c/o Plaza Suites Hotel
301 E University, Room 370
Las Cruces, NM 88005-3399

Dated: May 12, 2008

RICHARD W. WIEKING, CLERK

By: /s/
Leni Doyle
Deputy Clerk